

EXHIBIT

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From: Clark Newhall <cnewhall@cnewhall.com>
Subject: **jury instructions**
Date: September 30, 2011 12:06:45 PM MDT
To: Kathleen Abke <kabke@stirba.com>
▶ 1 Attachment, 28.0 KB

these are the instructions to which i can agree with minor changes. if you will make the minor changes, then i can agree. in addition, i can agree on including the entire set of the judges stock instructions. we have already agreed to disagree on the other jury instructions which you presented and i will be filing my objections and proposals as required



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Thank You
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DEFENDANT'S JURY INSTRUCTION NO. 3

Mr. Plascencia brings this action against Jared Taylor ("Mr. Taylor") and the City of St. George, Utah ("St. George") under Title 28 of the United States Code, Section 1983. Section 1983 is a federal civil rights statute enacted by Congress to enforce rights granted by the United States Constitution. Under Section 1983, a person may bring an action in court against any person who, under color of state law, violates any right secured or protected by the Constitution. If Mr. Plascencia proves a violation of Section 1983 against Mr. Taylor or St. George, he may recover for his injuries if he meets the requirements as the court will further instruct you.

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You are instructed as a matter of law that under the Fourth Amendment of the Constitution, all seizures of individuals by law enforcement officers must be reasonable. Also, every person has the right to be free from excessive force if he or she is seized by law enforcement officers.

28 U.S.C. §1983 (2011).

U.S. CONST. AMEND. IV.

DEFENDANT'S JURY INSTRUCTION NO. 4

In support of his Section 1983 claim, Mr. Plascencia asserts that Mr. Taylor, while acting under color of law, violated (1) his Fourth Amendment right to be free from unreasonable seizures and (2) his Fourth Amendment right to be free from the excessive use of force against his person. He further claims that he suffered damages as a result of these violations.

Also, Mr. Plascencia alleges that St. George is liable for the deprivations of his Fourth Amendment rights based on its decision to hire Mr. Taylor as a St. George Police Officer.

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DEFENDANT'S JURY INSTRUCTION NO. 12

An injury is proximately caused by an act, or a failure to act, whenever it appears from the evidence in the case that the act or omission played a substantial part in bringing about or actually causing the injury, and that the injury was either a direct result or a reasonably probable consequence of the act or omission.

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